

DAILY REPORT



NEWS

\$70M Dougherty County Jury Verdict Despite 'Tort Reform'

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May 01, 2025 By Cedra Mayfield, Litigation Reporter

From top left (clockwise): Matthew E. Cook of Cook Law Group, R. Shane Lazenby of Lazenby Law Group, Kate Cook, Benjamin Roth, Joshua L. Bearden and Nathan R. Nicholson of Cook Law Group. Courtesy photos

What You Need to Know

- Dougherty County Superior Court jury returns \$70 million medical-malpractice verdict after SB68 tort reform legislation signed into law.
- Collaborating plaintiff counsel with Cook Law Group and Lanzenby Law Group in Gainesville credit outcome to case's merit.
- Defense counsel with Coleman Talley in Valdosta, Oliver Maner in Savannah and Chambless, Higdon, Richardson, Katz & Griggs in Macon represented trio of physician defendants.

Just days after Georgia Governor Brian Kemp signed "tort reform" legislation into law, a Dougherty County Superior Court jury returned a \$70 million verdict against a trio of physicians whose alleged negligence resulted in the double amputation of a patient's legs.

Now plaintiff counsel with the Cook Law Group and Lanzenby Law Group are breaking down their prevailing trial strategy and modified damages request that led to the eight-figure outcome as the ink dried on Senate Bills [68](#) and [69](#).

"SB 68 did not affect the amount I asked for, but it did affect how we asked for the damages," plaintiff counsel Matthew E. Cook told the Daily Report.

'A Known Complication'

Gainesville litigator R. Shane Lazenby teamed with Cook to represent plaintiff Jessica Powell, who endured a medical overdose and subsequent amputation of her legs above the knees following an emergency hospital admission in 2013.

Plaintiff counsel alleged that, while in the care of staff at Phoebe Putney Memorial Hospital in Albany, physicians diagnosed Powell with sepsis and shock before administering vasopressors drugs that raise blood pressure by constricting blood vessels in the arms, legs, hands and feet.

"Unfortunately, one such drug called Vasopressin was started by the nurses at a dose two-and-a-half times the usual maximum dose, in violation of the initial physician's order," Cook claimed. "That overdose was continued for [more than] 40 hours without her ICU physicians identifying the overdose. The overdose was finally realized when Jessica's feet began to turn blue due to a lack of adequate blood flow, which is a known complication of high dose vasopressors."



Matthew E. Cook of Cook Law Group.
Courtesy photo

Following the complication, Cook claimed staff rapidly withdrew the Vasopressin in an attempt to restore blood flow to the plaintiff's legs. Afterward, defendant vascular surgeon Dr. Joe H. "Tripp" Morgan III allegedly assessed the patient's legs for potential injuries, per plaintiff counsel.

"However, over the next 24 hours, Dr. Morgan never reassessed Jessica nor responded to critical lab values that indicated Jessica was developing a reperfusion injury to her legs known as compartment syndrome," Cook claimed. "As a result of these two errors—the overdose and the mismanagement of the reperfusion injury—Jessica lost both legs above the knees."

In addition to seeking general damages for mental and physical suffering on Powell's behalf, plaintiff counsel filed a medical-malpractice complaint in March 2015 seeking special damages for past and future lost income and medical expenses.

The Dougherty County Superior Court filing named Morgan, Phoebe Putney Memorial Hospital, Albany Pulmonary and Critical Care Associates, Dr. James Palazzolo and Dr. Thomas Unagarino as defendants.

'Due to Her Addisonian Crisis'

Litigators from a trio of law firms defended the physicians and their practices.

Valdosta attorneys Gregory T. Talley and Annika M. Register of Coleman Talley represented Morgan and Albany Vascular Specialist Center.

Savannah-based Oliver Maner litigators Gregory Hodges, William "Bill" J. Hunter, George T. Major Jr. and W. Kelvin Goodson defended Palazzolo and Albany Pulmonary Care Associates.

Meanwhile, Macon attorneys David N. Nelson and Kiana Talton of Chambless, Higdon, Richardson, Katz & Griggs handled Ungarino's defense.

As of Thursday morning, a Daily Report request for comment about the dispute remained unanswered by defense counsel for Morgan. Meanwhile, defense counsel for both Palazzolo and Ungarino issued, and later rescinded, statements when reached for comment about the litigation Wednesday.

In consolidated pre-trial reports, the defense teams denied the physicians had deviated from the standard of care owed to the plaintiff.

Defense counsel for Morgan and Albany Vascular Specialist Center contended that, prior to Powell arriving to the Albany hospital, her "history of Addison's disease" contributed to her going "into adrenal crisis" and "multiple [cardiac] arrests" that required her revival and maintenance with the aid of vasopressors. When Powell's "family members discovered [her] discoloration and stiff lower extremities," counsel briefed that "Dr. Morgan responded immediately, diagnosed Powell with vasoconstriction and need for amputation due to the extent of lower extremity ischemia, and transferred Powell to Emory."

"She never suffered compartment syndrome while in Albany, Georgia," Morgan's defense attorneys briefed. "When she arrived at Emory, she underwent bilateral amputation above the knee."

Palazzolo and Albany Pulmonary Care Associates' defense quartet asserted a similar defense. The Oliver Maner litigators also homed in on Powell's existing Addison's disease diagnosis. The defense quartet noted that the plaintiff had "suffered at least three arrests on March 8, 2013, before her admission to Phoebe," before highlighting that Palazzolo "assumed care for her as her critical care physician" upon her arrival.

"Ms. Powell was in critical condition and already receiving treatment with multiple pressor medications when Dr. Palazzolo assumed care. Despite this treatment, Ms. Powell's blood pressure remained critically low. Dr. Palazzolo ordered that Ms. Powell receive the medication vasopressin to help raise her blood pressures and stabilize her condition," Palazzolo's defense brief read. "Dr. Palazzolo continued to provide care to Ms. Powell through the morning of March 10, 2013, at which time he handed off Ms. Powell's critical care medicine to Dr. Ungarino."



Greg Talley (left) and Annika Register of Coleman Talley. Courtesy photos



From top left (clockwise): Gregory Hodges, William "Bill" J. Hunter, W. Kelvin Goodson, and George T. Major, Jr. of Oliver Maner. Courtesy photos

Defense counsel for Palazzolo acknowledged that the plaintiff's "legs suffered low blood flow injuries and required eventual amputation," but maintained that "[a]t all times, Dr. Palazzolo complied with the standard of care and no act or omission on his part caused any harm to Ms. Powell."

"Ms. Powell had suffered severe hypotension for a matter of days—starting before she arrived at Phoebe," Palazzolo's defense brief read. "The care and treatment Ms. Powell received at Phoebe from Dr. Palazzolo and others was necessary to save her life and preserve the function of her brain and other vital organs."



David N. Nelson, left, and Kiana T. Talton, right, of Chambliss, Higdon, Richardson, Katz & Griggs. Courtesy photos

Ungarino's defense counsel highlighted that the defendant took over for Palazzolo in caring for the plaintiff two days after her admission to the hospital's intensive care unit. Based on Morgan's consultation with Powell, defense counsel said "Dr. Ungarino began to wean Jessica Powell off of Vasopressin" before arranging for her transfer to Emory Hospital.

"[Ungarino] last saw her mid-day on March 11, 2013. On March 12, 2013, Plaintiff underwent bilateral above-the-knee amputations," Ungarino's defense brief read. "Dr. Ungarino met the standard of care in his management of Plaintiff and no act or omission on his part led to Plaintiff's injuries. The plaintiff experienced irreversible injury to the muscles of her lower limbs due to her Addisonian crisis and subsequent arrests."

With the defendants disputing liability, the matter proceeded to trial not once, but twice. According to Cook, the case resulted in a mistrial in September 2024 after a person associated with Morgan "made contact with a potential juror during the voir dire process" and revealed the plaintiff had previously settled with the hospital.

"That conversation was discovered and the affected juror testified about the contact before the trial court," Cook said. "However, the trial court denied our request that phone records, text messages and other potential communications be preserved by defendants or their counsel. Accordingly, while a mistrial was granted, we were unable to fully explore these issues."

'SB68 Had No Impact'

Seven months later, Lazenby and Cook gathered before Dougherty County Superior Court Chief Judge Denise Marshall and jurors on April 7. Backed by Cook Law Group associates Kate Cook, Benjamin Roth, Joshua L. Bearden and Nathan R. Nicholson at trial, plaintiff counsel contended that Powell lost her left leg "due to the failure" of critical care physicians Palazzolo and Ungarino and lost her right leg "due to the negligence" of Morgan.

"As with just about every medical-negligence case, the biggest hurdle was the collective testimonies of the three defendant physicians specifically addressing the use of their clinical judgments when treating Jessica," Lazenby said. "Our challenge was to reveal the unreasonable nature of that clinical judgment and display the inconsistencies between such judgment and prevailing science."



Chief Judge Denise Marshall, Dougherty Judicial Circuit Superior Court. Courtesy photo

To overcome the obstacle, plaintiff counsel focused on convincing the jury that the plaintiff's treatment had been "objectively flawed." After delivering "a very logically sound opening statement," Cook said he made it a point to provide proof of each argument outlined in the opening.



Nathan R. Nicholson of Cook Law Group.
Courtesy photo

But it's what happened when the defendants testified that plaintiff attorney Nicholson said likely tilted the jury in their client's favor.

"The cross-examinations in this case were very tight and forced the witnesses into deviating from their prior testimony which totally undermined their credibility with the jury," Nicholson said.

Cook agreed, noting that the "strained positions" of the physicians and their experts proved beneficial with the jury as the trial proceeded beyond a week.

"It was an intense trial, with multiple expert witnesses and three doctors," Cook said. "Preparing for cross-examinations required hundreds of hours of work. But, I have a strong, capable team, and I've tried numerous complex cases over the years, which affords you the insight for extracting the truth from deceitful witnesses and understanding what motivates jurors."

Although opposing counsel entertained settlement talks during the second and third trial weeks, Cook said the parties failed to reach an agreement. Upon proceeding to closing arguments, Cook said plaintiff counsel asked the jury to return between \$42 million and \$68 million in damages, with about \$17 million allocated to Powell's past and future medical expenses. But with the trial taking place amid the backdrop of a divisive legislative push for tort reform under Senate Bills 68 and 69, Cook said he had to tweak how he made the damages request.

"Under SB68, we were required to present the requested amount in the first closing and could not deviate from that amount in the second closing," Cook said. "In terms of justifying the amount requested, SB68 had no impact on that because I have never used gimmicks or strained analogies in requesting a damages number."

Lazenby added that, while plaintiff counsel remained "mindful of the possible impact of SB68 messaging throughout the media during the legislative session," they felt assured that they'd argued "a clearly meritorious and strong case."

"We knew the facts of this case would overcome any negative impact of tort reform and any attempts to curtail Jessica Powell's right to a trial by jury," Lazenby said.

Across the aisle, Cook said opposing counsel referred to part of the plaintiff case as "garbage" during defense closing arguments.

"That was a callous and tone-deaf comment that did not help their cause," Cook said.

'32 Minutes to Deliberate'



R. Shane Lazenby of Lazenby Law Group.
Courtesy photo

After 2½ weeks of trial, Dougherty County Superior Court jurors took less than an hour to deliberate before returning a \$70 million verdict in favor of the plaintiff.

The jury split liability between the physicians with 50% apportioned to Morgan, 30% assessed against Palazzolo and 20% attributed to Ungarino.

"This was exactly the allocation we asked the jury to assign," Cook said. "The verdict came as no surprise because we knew from Day 1 that Jessica was a deserving client who was clearly mistreated by her physicians. As I told the jury, 'We had to hear "no, no, no" from the Defense for years. It is now time to hear from you.'"



Joshua L. Bearden of Cook Law Group.
Courtesy photo

Plaintiff counsel Bearden applauded the team effort, noting the eight-figure outcome had been long in the making.

"A multiweek trial is not something that is won on chance. The true trial experience starts well before the trial itself, with weeks of lockdown preparation by the trial team and countless late nights, early mornings and continuous weekend work sessions," Bearden said. "All of the work is worth it when a deserving client finally gets the justice she deserves."

Lazenby echoed Bearden's sentiments.

"Jessica Powell waited a dozen years for her opportunity to prove the negligence of the doctors who treated her," Lazenby said. "It was a long and hard fight for the entirety of the case. We were honored to have been chosen to help Jessica see this case through until the end."

For Lazenby, the verdict served as a reminder that, regardless of their complexity, "good cases ... can be tried, understood, and well-received by conscientious and attentive jurors."

"Even if the defendants' insurer decides to refrain from ever discussing resolution short of trial, do not give up," Lazenby said. "Press forward and obtain justice."